

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)	
)	
Matti KIVIKKO et al.)	Group Art Unit: 1614
)	
Application No.: 10/541,394)	Examiner: Christopher R. STONE
)	
Int'l Filing Date: January 2, 2004)	Confirmation No.: 6385
§ 371 Date: March 29, 2006)	
)	
For: METHOD FOR TREATING RENAL FAILURE)	<u>VIA EFS-WEB</u>

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

INFORMATION DISCLOSURE STATEMENT UNDER 37 C.F.R. § 1.97(c)

Pursuant to 37 C.F.R. §§ 1.56 and 1.97(c), Applicants bring to the attention of the Examiner the documents on the attached listing. This Information Disclosure Statement is being filed after the events recited in Section 1.97(b) but, to the undersigned's knowledge, before the mailing date of either a Final action, Quayle action, or a Notice of Allowance. Under the provisions of 37 C.F.R. § 1.97(c), this Information Disclosure Statement is accompanied by a fee of \$180.00 as specified by Section 1.17(p).

Copies of the listed non-patent literature documents are attached.

Copies of the Office Actions from a co-pending application are not enclosed, as it is the undersigned's understanding that they are available on the Image File Wrapper on PAIR. See M.P.E.P. § 609.04(a).

The United States Court of Appeals for the Federal Circuit held in *Dayco Products, Inc. v. Total Containment, Inc.*, 329 F.3d 1358, 66 U.S.P.Q.2d 1801 (Fed. Cir. 2003) that an "adverse decision" by another examiner may meet the materiality standard under the amended Rule 56, and thus, Applicants should disclose prior rejections of "substantially similar claim[s]" to the Office. *See also* M.P.E.P. § 2001.06(b). Accordingly, although Applicants are not representing that the Office Actions received in the co-pending application are material to the present application and are not admitting that any of the other claims are substantially similar, out of an abundance of caution, Applicants have listed substantive Office Actions that was received in a co-pending application on the attached form PTO SB08.

Applicants respectfully request that the Examiner consider the listed documents and indicate that they were considered by making appropriate notations on the attached form.

This submission does not represent that a search has been made or that no better art exists and does not constitute an admission that each or all of the listed documents are material or constitute "prior art." If the Examiner applies any of the documents as prior art against any claims in the application and Applicants determine that the cited document does not constitute "prior art" under United States law, Applicants reserve the right to present to the office the relevant facts and law regarding the appropriate status of such documents.

Applicants further reserve the right to take appropriate action to establish the patentability of the disclosed invention over the listed documents, should one or more of the documents be applied against the claims of the present application.

If there is any fee due in connection with the filing of this Statement, please
charge the fee to Deposit Account No. 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

Dated: November 18, 2009

By: Kimberly D. Smith
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